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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

TASH HEPTING, GREGORY HICKS, CAROLYN JEWEL and ERIK KNUTZEN on Behalf of Themselves and All Others Similarly Situated, Plaintiffs, vs. AT&T CORP., AT&T INC. and DOES 1-20, inclusive, Defendants.	No. C-06-0672-VRW **REQUEST FOR JUDICIAL NOTICE IN SUPPORT OF MOTION OF DEFENDANT AT&T INC. TO DISMISS** [Fed. R. Evid. 201] Date: June 23, 2006 Time: 9:30 a.m. Courtroom: 6, 17th Floor Judge: Hon. Vaughn R. Walker Filed concurrently: 1. AT&T Inc.'s Reply in Support of Motion to Dismiss 2. Reply Decl. of Starlene Meyerkord 3. Reply Decl. of Joseph Tocco

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REQUEST FOR JUDICIAL NOTICE

Defendant **AT&T INC.** hereby requests that the Court take judicial notice of the following documents attached as Exhibits A. This request is made pursuant to Rule 201 of the Federal Rules of Evidence and the authorities cited below. This request is made in connection with AT&T Inc.'s Motion to Dismiss the Amended Complaint for Damages, Declaratory and Injunctive Relief filed by plaintiffs Tash Hepting, Gregory Hicks, Carolyn Jewel and Erik Knutzen (Dkt. 8).

Exhibit	**Description**
A	Notice of Motion and Motion to Quash Service of Summons by Specially Appearing Defendant SBC Communications Inc. (and accompanying Memorandum of Points and Authorities, [Proposed] Order and Declaration of Starlene Meyerkord), dated May 27, 2003, in *RLH Industries, Inc. v. SBC Communications, Inc., et al.*, Case No. 02 CC 16869 (California Superior Court, Orange County).

BASIS FOR REQUESTING JUDICIAL NOTICE

On a motion to dismiss, a court may take judicial notice of matters of public record in accordance with Federal Rule of Evidence 201 without converting the motion to dismiss to a motion for summary judgment. *Lee v. City of Los Angeles*, 250 F.3d 668, 688-689 (9th Cir. 2001) (citing *Mack v. South Bay Beer Distributors, Inc.*, 798 F.2d 1279, 1282 (9th Cir. 1986)). Courts may take judicial notice of documents outside of the complaint that are capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(d); *Wietschner v. Monterey Pasta Co.*, 294 F. Supp. 2d 1102, 1109 (N.D. Cal. 2003). Courts can take judicial notice of such matters when considering a motion to dismiss. *Wietschner*, 294 F. Supp. 2d at 1109; *MGIC Indem. Corp. v. Weisman*, 803 F. 2d 500, 504 (9th Cir. 1986).

Courts may take judicial notice of proceedings in other courts. *U.S. ex rel Robinson Rancheria Citizens Council v. Borneo, Inc.*, 971 F.2d 244, 248 (9th Cir. 1992) (citing *St. Louis Baptist Temple, Inc. v. FDIC*, 605 F.2d 1169 (10th Cir. 1979)) ("[W]e 'may take notice of proceedings in other courts, both within and without the federal judicial system, if those proceedings have a direct relation to matters at issue.'"). Exhibit A is a motion to quash filed in the Superior Court of California for the County of Orange. The contents of Exhibit A are public records that are "not subject to reasonable dispute [and] capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b)(2). This exhibit reflects the proceedings in another court and is appropriate for judicial notice, as set forth in *U.S. ex rel Robinson Rancheria Citizens Council*. It is being offered solely to show that SBC Communications Inc. did not consent to personal jurisdiction in the *RLH Industries* case, contrary to plaintiffs' argument.

For the foregoing reasons, Exhibit A may properly be considered by the Court in ruling on AT&T Inc.'s motion to dismiss.

Dated: June 16, 2006.

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